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10/806,720

03/23/2004

Diane Ransom

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7590

06/15/2005

Patrick D. Archibald
Lambert & Associates
92 State Street
Boston, MA 02109

EXAMINER

SANDY, ROBERT JOHN

ART UNIT

PAPER NUMBER

3677

DATE MAILED: 06/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|--------------------------------------|--|
| Office Action Summary | Application No. 10/806,720 | Applicant(s) RANSOM, DIANE | |
| | Examiner Robert J. Sandy | Art Unit 3677 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims, and show certain details as described in the specification. The certain features and details pertain to:

- “wherein the plate further comprises a button” (claim 17);
- “said top post portion having a substantially hollow area” (claim 18);
- “a piece of apparel” (claim 20);
- “inserting said post through a pre-existing opening in the fabric” (claim 21);
- “a plurality of fibers” (claim 22).

Therefore, the features and details must be shown or the feature(s) canceled from the claim(s). **No new matter should be entered.**

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action.

Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being

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amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objections to the drawings will not be held in abeyance.

Claim Objections

Claim 18 is objected to because of the following informalities: In claim 18, line 8, the phrase "and wherein said post a second opposing vertical notch" is idiomatic. (The phrase "wherein said post" appears to be inserted in error, in order for the phrase to read as - - *and a second opposing vertical notch.* - -) Appropriate correction is required.

Specification

1. The specification is objected to under 35 U.S.C. § 112, first paragraph, as failing to teach how to make and/or use the invention, i.e., failing to provide an enabling disclosure

The following is a quotation of 37 CFR 1.71(a)-(c):

(a) The specification must include a written description of the invention or discovery and of the manner and process of making and using the same, and is required to be in such full, clear, concise, and exact terms as to enable any person skilled in the art or science to which the invention or discovery appertains, or with which it is most nearly connected, to make and use the same.

(b) The specification must set forth the precise invention for which a patent is solicited, in such manner as to distinguish it from other inventions and from what is old. It must describe completely a specific embodiment of the process, machine, manufacture, composition of matter or improvement invented, and must explain the mode of operation or principle whenever applicable. The best mode contemplated by the inventor of carrying out his invention must be set forth.

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(c) In the case of an improvement, the specification must particularly point out the part or parts of the process, machine, manufacture, or composition of matter to which the improvement relates, and the description should be confined to the specific improvement and to such parts as necessarily cooperate with it or as may be necessary to a complete understanding or description of it.

The specification is objected to under 37 CFR 1.71 because it fails to provide an enabling disclosure teaching how to make the claimed invention, as to the following: The specification fails to provide an enabling disclosure teaching how to make and/or use the claimed apparel insertion device and method for using an apparel insertion device.

The specification does not provide an enabling disclosure describing how the post 4 is attached to the base 6. The specification does not provide an enabling disclosure describing how the post release buttons 8 and post release means are constructed and associated with each other in order for one to understand how the post is attached to and released from the base 4. The specification does not provide an enabling disclosure structurally and functionally describing how the plate release 3, prong members 2 and vertical notches 11 are capable of being releasably fastened to the attachment ring 12. Consequently, the specification does not support an enabling disclosure structurally and functionally describing how to perform the claimed method for using an apparel insertion device (claims 20-22) since there is not enabling disclosure of how to attach the plate to the post, how the post is engaged into the base, and how the post is capable of being inserted thorough a plurality of fibers that make up the piece of apparel (claim 22).

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-22 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The subject matter

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pertaining to: The specification not providing an enabling disclosure describing how the post 4 is attached to the base 6; the specification not providing an enabling disclosure describing how the post release buttons 8 and post release means are constructed and associated with each other in order for one to understand how the post is attached to and released from the base 4; the specification not providing an enabling disclosure structurally and functionally describing how the plate release 3, prong members 2 and vertical notches 11 are capable of being releasably fastened to the attachment ring 12; and the specification not supporting an enabling disclosure structurally and functionally describing how to perform the claimed method for using an apparel insertion device (claims 20-22) since there is not enabling disclosure of how to attach the plate to the post, how the post is engaged into the base, and how the post is capable of being inserted thorough a plurality of fibers that make up the piece of apparel (claim 22).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Carter (U. S. Patent No. 227,730). Carter discloses an apparel insertion device comprising: a plate (shoe *F*); a post (combination of structure having cap *E* and spring-latch *B*), having an outer post surface and an inner post surface, wherein said post is attached to said plate (via catches *e e* engaging with lips *ll* of stem *k* of shoe *F*); and a base (disk *A*) having a base top and a base bottom, wherein said base is capable of receiving said post (Fig. 1 demonstrates the post *E, F* received by the base *A*);

(concerning claim 2) the post further comprises a plate attachment means.(catches *e e*);

(concerning claim 3) the post further comprises a plate release means (push-bars *ff*);

(concerning claim 4) the plate attachment means further comprises at least one prong member (one of the catches *e e*);

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(concerning claim 5) the plate attachment means further comprises a first prong member and a second prong member (first and second prong member disclose as catches *e e*);

(concerning claim 6) the outer post surface further comprises at least one grooved area (slit *i*) aligned in a substantially horizontal fashion on the outer post surface; and

(concerning claim 7) the base further comprises a means for attaching the post (the base attaching means is met by “drawing rim *b* over the cap *g*”, as shown in Fig 1).

Claims 20 and 21, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Libby (U. S. Patent No. 2,713,707). Lilly ('707) shows and discusses a method for using an apparel insertion device (10) comprising the steps of: attaching a plate (11) to a post (12) via “spiral base 22 is readily mounted and locked in the recess 18” (col. 2, lines 10-11); inserting said post through a piece of apparel (“pin element 12 is passed through the other button hole”, col. 2, lines 52-53); and engaging said post into a base (head 13 having lock socket device 14); and (concerning claim 21) the step of inserting said post through a piece of apparel further comprises inserting said post through a pre-existing opening (i.e., “button hole”, col. 2, line 53) in the fabric (“cuff material”).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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Claim 22, as best understood, is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Libby ('707). Libby ('707) discloses the claimed method except for explicitly discuss wherein the cuff material is made of a plurality of fibers, such that the post is inserted through the plurality of fibers that make the piece of apparel.

It is well known that apparel in the category of shirts are made of cloth fabric which inherently is made up of a plurality of fiber yarns and/or threads. It would have been inherent that the button hole(s) of the cuff material of Libby ('707) would have comprised fibers since the button holes are provided in the cuff material. Therefore, Libby ('707) meets the step of inserting said post through a piece of apparel further comprises inserting said post through a plurality of fibers (i.e., the fabric making up the button hole of the cuff material is inherently made up of fibers) that make up said piece of apparel.

Conclusion


An indication of allowability to all of the pending claims has not been provided in this communication due to the rejection(s) under 35 U.S.C. 112, first paragraph, and objections to the specification and drawing cited herein.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J. Sandy whose telephone number is 571-272-7073. The examiner can normally be reached on M-F (7:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J.J. Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


ROBERT J. SANDY
PRIMARY EXAMINER